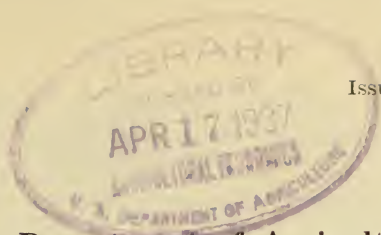


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United States Department of Agriculture

BUREAU OF AGRICULTURAL ECONOMICS

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 98 (REVISED)

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE GRADING AND CERTIFICATION OF MEATS, PREPARED MEATS, MEAT FOOD PRODUCTS, AND MEAT BYPRODUCTS FOR CLASS, QUALITY (GRADE), AND CONDITION

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of the authority vested in the Secretary of Agriculture by a provision of the act of Congress entitled "An act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1937" approved June 4, 1936 (49 Stat., 1449-1452), authorizing the investigation and certification of the class, quality, and condition of perishable farm products, I, M. L. Wilson, Acting Secretary of Agriculture, do prescribe and promulgate, in lieu of all existing rules and regulations, the following rules and regulations governing the grading and certification of meats, prepared meats, meat food products, and meat byproducts for class, quality, and condition, to be in force and effect on and after January 1, 1937, and to continue in force and effect so long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the city of Washington, this 8th day of December 1936.

[SEAL]

M. L. WILSON,
Acting Secretary of Agriculture.

REGULATION 1. DEFINITIONS

SECTION 1. Words in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. For the purpose of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean—

PARAGRAPH 1. *The act.*—The following provisions of an act of Congress entitled "An act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1937, and for other purposes", approved June 4, 1936 (49 Stat. Public No. 637—74th Cong.), or any future act of Congress conferring like authority:

"For enabling the Secretary of Agriculture, independently or in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations

engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits, and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the Department shall be received in all courts of the United States, as prima facie evidence of the truth of the statement therein contained."

PAR. 2. *Secretary*.—Secretary or Acting Secretary of Agriculture of the United States.

PAR. 3. *Bureau*.—Bureau of Agricultural Economics of the United States Department of Agriculture.

PAR. 4. *Person*.—Individual, association, partnership, or corporation.

PAR. 5. *Official grader*.—Employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the class, quality, grade, and condition of products under the act.

PAR. 6. *Products*.—Meats, prepared meats, meat food products, and meat byproducts.

PAR. 7. *Office of grading*.—The office of an official grader of products covered by these regulations.

PAR. 8. *Grading certificate*.—Certificate of the class, quality (grade), and condition of products issued by an official grader under the act.

PAR. 9. *Interested party*.—Anyone having a financial interest in the products involved, including the shipper, the receiver, or the carrier, or any authorized person in behalf of such party.

PAR. 10. *Regulations*.—Rules and regulations of the Secretary under the act.

PAR. 11. *Class*.—Class is a subdivision of a given commercial product based on essential physical characteristics that differentiate between major groups of the same kind or species, for instance, the classes in beef are: steer, heifer, cow, stag, and bull.

PAR. 12. *Quality*.—Quality in a product is a combination of its inherent properties which determines its relative degree of excellence.

PAR. 13. *Condition*.—Condition of a commercial product denotes those characteristics affecting its merchantability—with special reference to state of preservation, cleanliness, soundness, wholesomeness, and fitness for human food.

PAR. 14. *Grade*.—Grade is the last important commercial subdivision of a product based on certain definite value and preference-determining factors, such as conformation, finish, and quality in meats.

PAR. 15. *Carcass*.—A carcass is the commercially prepared or dressed body of any cattle, sheep, swine, or goat intended for human food.

PAR. 16. *Meat*.—Meat is the flesh derived from cattle, sheep, swine, or goats intended for human food with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the flesh.

PAR. 17. *Prepared meats*.—Prepared meat is the product obtained by subjecting meat to a process of comminuting, drying, curing, smoking, cooking, seasoning, or flavoring, or to any combination of such processes to which no considerable quantity of any substance other than meat or meat byproducts has been added.

PAR. 18. *Meat food products*.—A meat food product is any article of food or any article which enters into the composition of food for human consumption, which is derived or prepared, in whole or in part, by a process of manufacture, from any edible portion of cattle, sheep, swine, or goats, if such portion be all or a considerable and definite portion of the article—except such preparations as are for medicinal purposes only.

PAR. 19. *Meat byproducts*.—Meat byproducts are all edible parts, other than meat, derived from cattle, sheep, swine, or goats, and include hearts, livers, kidneys, tongues, tails, sweetbreads, brains, lungs, melts, stomachs, tripe, lips, snouts, and ears.

REGULATION 2. ADMINISTRATION

SECTION 1. The Chief of the Bureau is charged with the administration of the provisions of the act and these regulations.

REGULATION 3. WHERE SERVICE IS OFFERED

SECTION 1. *Grading—Where done.*—Products may be graded at points indicated in paragraphs 1, 2, and 3 of this section whenever an official grader is available.

PARAGRAPH 1. *Shipping points.*—Grading may be done wherever products are offered for interstate shipment, including slaughtering plants, packing plants, warehouses, loading platforms, docks, or other places where these products are handled, kept, or stored.

PAR. 2. *Designated markets.*—The following are designated as important central markets at which products may be graded under the act:

Baltimore, Md.	Oklahoma City, Okla.
Boston, Mass.	Omaha, Nebr.
Buffalo, N. Y.	Philadelphia, Pa.
Chicago, Ill.	Phoenix, Ariz.
Cleveland, Ohio.	San Francisco, Calif.
Columbus, Ohio.	Seattle, Wash.
Detroit, Mich.	Sioux City, Iowa.
Kansas City, Mo.	South St. Paul, Minn.
Los Angeles, Calif.	Washington, D. C.
National Stock Yards, Ill.	Wheeling, W. Va.
New York, N. Y.	Wichita, Kans.

Other markets may be designated by the Secretary from time to time.

PAR. 3. *Other points.*—Grading may be done at any point near a designated market under conditions provided in regulation 7, section 1, paragraph 5, to the extent permitted by the time of the nearest official graders.

Regulation 4. Grading Service

SECTION 1. *Kind of service.*—Examination, identification, and certification of products may be made according to class, quality (grade), and condition.

SEC. 2. *Who may obtain service.*—Application for grading may be made by any financially interested person or his authorized agent, including Federal, State, county, and municipal governments, and common carriers.

SEC. 3. *How to make application.*—Application for grading may be filed in the office of grading or with an official grader. It may be made in writing, orally, or by telegraph or telephone. If made orally, the official grader may require that it be confirmed in writing or by telegraph, stating the facts required by Section 4 of this regulation.

SEC. 4. *Form of application.*—Each application for grading shall include the following information: (a) the date of application; (b) the description and location of the product to be graded; (c) the name and post office address of the applicant and of the person, if other than the applicant, making the application in his behalf; (d) the interest of the applicant (except an official of the Federal Government or a State) therein; (e) the name, post office address, and interest of all other known parties, except carriers, interested in the products involved; (f) the shipping point and destination of the product; (g) type of service desired; and (h) such other information as may be necessary for proper identification of the product or as may be required by the Chief of Bureau.

SEC. 5. *When application deemed filed.*—An application for grading shall be deemed filed when delivered to the proper office of grading. Record showing date and time of filing shall be made in such office.

SEC. 6. *When application may be rejected.*—Any application may be rejected by the official grader in charge of the office of grading in which it is filed for noncompliance with the act or any applicable regulation thereunder, failure to make product available for examination, abusive language or act of violence, or interference with grader while performing grading, and such official grader shall immediately notify the applicant of the reasons for such rejection.

SEC. 7. *When application may be withdrawn.*—An application may be withdrawn by the applicant at any time before the service is performed upon payment of any expenses already incurred in connection therewith.

SEC. 8. *Authority of agent.*—Proof of the authority of any person applying for service in behalf of another may be required in the discretion of the official grader.

SEC. 9. *Accessibility of product.*—The applicant shall cause the products for which service is requested to be made accessible for grading and to be so placed as to disclose class, quality, and condition.

SEC. 10. *Basis of service.*—Examination, identification, and certification for class, grade, and condition shall be based upon the official or tentative standards of the Department of Agriculture or upon Federal specifications.

SEC. 11. *Order of grading.*—Service shall be rendered in the order in which applications are received, except that precedence may be given to applications made by another branch of the Federal Government, a State, or a municipality, and appeal grading.

SEC. 12. *Financial interest of official grader.*—No official grader shall grade any products in which he is directly or indirectly financially interested.

SEC. 13. *Investigation on motion of graders.*—A grader may of his own motion and without the use of any force, when authorized by the Chief of the Bureau, investigate the class, quality (grade), and condition of any products at such points as are provided under regulation 3, and may issue and transmit to the shipper of such products and other parties interested therein certificates or copies thereof showing the results of such investigations.

SEC. 14. *Certificate—form of.*—Certificates shall include the following information: (1) the number of the certificate; (2) name of designated market and place of grading; (3) date and time of grading; (4) names and addresses of applicant, party in possession, and shipper and buyer, if known; (5) exact number of carcasses, sides, quarters, cuts, and packages of products by classes and grades examined, if graded; (6) if previously examined, reference to previous certificate by number; (7) if rejected or not graded, reason for rejecting or not grading; (8) for purposes of identification, the weight of each class, grade, and lot; (9) the amount of fees and expenses; (10) name of official grader or graders; (11) additional facts necessary to fully describe condition, class, and grade, or as may be required by the Chief of Bureau.

SEC. 15. *Certificates—issuance.*—The official grader shall sign and issue certificates covering lots of products personally graded by him unless through special arrangements approved by the Chief of Bureau this be not required, in which case complete records of the grading shall be furnished the Bureau; but in no case shall any grader sign a certificate covering any product not graded by him. Graders shall stamp, brand, tag, label, seal, or otherwise identify or supervise the stamping, branding, tagging, labeling, sealing, or otherwise identifying of each unit of product or package or container thereof with its class and quality (grade) as far as practicable, or the applicant may issue, when authorized by the Chief of the Bureau, certificates of quality of such forms as are approved by the Chief of the Bureau, the certificates of quality issued by the applicant to be used only by the applicant in such manner and for such purpose as is approved by the Chief of the Bureau.

SEC. 16. *Disposition of certificates.*—The original certificate, and not to exceed two copies if requested, upon issuance shall be immediately delivered or mailed to the applicant or a person designated by him. One copy shall be filed in the office of the official grader and one copy forwarded to the Chief of Bureau. Copies of certificates shall be kept on file until other disposition is ordered by the Chief of Bureau. Copies will be furnished to other financially interested parties as outlined in regulation 7, section 1, paragraph 6.

SEC. 17. *Advance information.*—Upon request of an applicant, all or any part of the contents of the certificate may be telegraphed, telephoned, or radioed to him, or to any person designated by him, at his expense.

REGULATION 5. APPEAL GRADING

SECTION 1. *When appeal may be taken.*—An application for appeal grading may be made whenever any financially interested party is dissatisfied with the determination stated in the original certificate.

SEC. 2. *How to obtain.*—Appeal grading may be obtained by the applicant or other person financially interested in the product by filing a request for

such appeal grading (a) with the official in charge of the meat grading service at nearest designated market, or (b) with the grader who did the original grading, or (c) with the Chief of the Bureau. The application for appeal shall state the reasons therefor, and may be accompanied by a copy of any previous grading certificate or report, or any other information which the applicant shall have received regarding the product at the time of the original grading. Such application may be made in writing or orally, by telegraph, telephone, or otherwise. If made orally, the person receiving the application may require that it be confirmed in writing.

SEC. 3. *Record of filing time.*—A record showing the date and time of filing such application shall be immediately made by the receiver thereof.

SEC. 4. *When appeal may be refused.*—If it shall appear that the reasons stated in an application for appeal grading are frivolous or unsubstantial, or that the quality or condition of the products has undergone a material change since the original grading, or that the products cannot be made accessible for thorough grading, or that the identity has been lost, or that these regulations have not been complied with, the application may be denied.

SEC. 5. *When appeal may be withdrawn.*—An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading has been performed upon payment of any expenses incurred in connection therewith.

SEC. 6. *When second grading is not an appeal.*—Gradings requested to determine factors of quality or condition which may have undergone material change since the original grading shall not be considered appeal gradings within the meaning of this regulation. Second grading, requested for the purpose of securing an up-to-date certificate and not involving any question as to the correctness of the original certificate covering the lot in question, shall not be considered appeal grading within the meaning of this regulation.

SEC. 7. *Order in which made.*—Appeal gradings shall be performed as far as practicable at time requested by applicant and in the order in which applications are received. They shall take precedence over all other pending applications.

SEC. 8. *Who shall pass upon appeals.*—Appeal grading shall be passed upon by official graders designated therefor by the Chief of Bureau, and such grading shall be conducted jointly by two official graders when practicable. No appeal grader shall pass upon an application involving the correctness of a certificate issued by him.

SEC. 9. *Appeal findings.*—Immediately after an appeal grading has been made a certificate designated as "appeal grading certificate" shall be signed and issued referring specifically to the original certificate and stating the quality and condition of the product as shown by the appeal grading. In all other respects the provisions of regulation 4 shall apply to such appeal grading certificates except that if the applicant for appeal grading be not the original applicant, a copy of the appeal grading certificate shall be mailed to the original applicant.

SEC. 10. *Superseded certificates.*—When a grading certificate shall have been superseded under these regulations by an appeal grading certificate such grading certificate shall become null and void and shall not thereafter represent the class, quality, or condition of the product described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for appeal grading is filed, the officer or officers issuing the appeal grading certificate shall forward notice of such issuance and of the cancelation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

REGULATION 6. LICENSED GRADERS

SECTION 1. *Who may be licensed.*—Persons showing proper qualifications may be licensed by the Secretary as official graders of products which may be graded under the act. All such licenses shall be countersigned by the specialist in charge of the Livestock, Meats, and Wool Division, the specialist in charge of grading in that Division, or by the supervising grader under whose direction the licensee is to grade.

SEC. 2. *Suspension of license.*—Any license may be suspended, pending final action by the Secretary, by an official by whom the license may be countersigned or by the Chief of the Bureau, whenever such official shall deem such

action to be for the good of the service. Within 7 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to submit in his behalf.

REGULATION 7. FEES AND EXPENSES

SECTION 1. *Amount of, rates, etc.*—

PARAGRAPH 1. *Basis for charges.*—Fees and charges for grading services at designated markets shall be based on the actual time required to render the services, including the time required for travel of the official grader in connection therewith, at the rate of \$2 per hour for each official grader assigned unless otherwise provided by special agreement approved by the Chief of the Bureau: *Provided*, that no grading services shall be rendered for less than a minimum charge of \$1. *Provided further*, that the Chief of the Bureau may, in lieu of the fixed charge of \$2 per hour, fix other reasonable charges for the grading and certification of products at rates, that, in his judgment, will cover the costs of the services.

PAR. 2. *Charges by graders employed or licensed by Department of Agriculture.*—Charges for services by employees of the Department and by graders licensed by the Secretary shall be at rates established herein.

PAR. 3. *Charges under cooperative agreement.*—Charges for grading under cooperative agreements shall be those provided for by such agreements.

PAR. 4. *For appeal grading.*—Fees and charges for appeal grading shall be double those for original grading; except that appeal grading for Federal Government agencies shall be at actual cost; provided that when on appeal grading it is found that there was error in determination based upon the original grading equal to or exceeding 10 percent of the total weight of the products, no charge will be made unless special agreement with applicant is made in advance.

PAR. 5. *Traveling expenses, etc.*—Such further charges may be made for traveling expenses and other items paid or incurred by the Bureau in connection with grading service furnished at a place where no grader is located, or appeal grading where the services of a second grader are required, as will reimburse the Bureau. These charges shall be included with the fee for grading on the bill furnished the applicant.

PAR. 6. *For copies of grading certificates.*—For not to exceed three copies of a certificate to any person financially interested in a product involved the fee shall be \$1.

SEC. 2. *How fee shall be paid.*—Fees and other charges shall be paid by the applicant in accordance with directions on the fee bill furnished him, and in advance if required by the official grader.

SEC. 3. *Disposition of fees*—

PARAGRAPH 1. *By graders exclusively employed by the Department.*—Fees for grading done by graders exclusively employed by the Department shall be remitted to the Bureau for deposit into the Treasury as Miscellaneous Receipts.

PAR. 2. *By graders under cooperative agreements.*—Fees for grading done by graders acting under cooperative agreements with a State or municipal organization, or other cooperating party, shall be disposed of in accordance with the terms of such agreements. Such portion of fees collected under cooperative agreements as may be due the United States shall be remitted to the Bureau for deposit into the Treasury.

REGULATION 8. MISCELLANEOUS

SECTION. 1. *Fraud or misrepresentation.*—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by any applicant for grading or appeal grading; or any willful violation of these regulations or of the supplementary rules and instructions issued by the Chief of the Bureau, may be deemed sufficient cause for debarring the person guilty thereof from any further benefits of the act.

SEC. 2. *Publication.*—Publications under the act and these regulations shall be made in the Service and Regulatory Announcements of the Bureau and such other mediums as the Chief of the Bureau may from time to time designate for the purpose.

SEC. 3. *Political activity.*—All official graders authorized, either by appointment or license from the Secretary to issue grading certificates under the act

and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

SEC. 4. *Identification*.—All official graders shall have in their possession at all times Bureau identification cards and shall identify themselves by such cards on request.

